

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,)	3:15-cv-00109-MMD-WGC
)	
Plaintiff,)	<u>MINUTES OF PROCEEDINGS</u>
)	
vs.)	April 13, 2015
)	
DAVID ARNOLD,)	
)	
Defendant.)	
_____)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: FTR

COUNSEL FOR PLAINTIFF: Carla Higginbotham

COUNSEL FOR DEFENDANT: Loren Graham

MINUTES OF PROCEEDINGS: Motion Hearing

10:07 a.m. Court convenes.

The court holds today's conference to address Defendant David Arnold's motion for reconsideration (Doc. # 6). The court advises counsel it is in receipt of Defendant's withdrawal of his motion for reconsideration and request to vacate today's hearing (Doc. # 27). The court explains it has decided to continue with today's conference to discuss with counsel the authority to which the Magistrate Judge has over current motions pending and any future proceedings.

The court states for the record that defendant Arnold is not present for today's hearing. No action will be taken by the court regarding defendant Arnold's absence although he had been directed to be present for today's hearing (Doc. # 16).

Defense counsel Loren Graham explains to the court that the reason Mr. Arnold is withdrawing his motion for reconsideration is because there is no provision within the Federal Rules of Criminal Procedure that allow for such a document to be filed. Mr. Graham suggests that, in view of Defendant's notices of appeal¹ filed by Mr. Arnold himself (Doc. # 5) and by the Assistant Federal

¹ Both notices of appeal have been lodged on the docket as "Objections re LR IB 3-1 or Motion for District Judge to Reconsider Order."

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Public Defender Lauren Gorman on behalf of Mr. Arnold (Doc. # 12), jurisdiction in this matter is before District Judge Du and not Magistrate Judge Cobb. However, given the Defendant's position to withdrawal his motion for reconsideration, Mr. Graham further suggests Magistrate Judge Cobb has the authority to dispose of the motion and any requests similar in nature.

Counsel for the Government Carla Higginbotham states she agrees with defense counsel that, to her knowledge, there is no provision within the Federal Rules of Criminal Procedure which would allow for a motion for reconsideration, especially in light of a notice of appeal being filed. Ms. Higginbotham states she has no objection to the Defendant's request to withdrawal his motion for reconsideration and any similar requests.

Ms. Higginbotham makes note of a provision within Fed. R. Civ. P. 62.1 that may provide some insight as to jurisdictional questions that have been contemplated throughout this case.

In view of counsels' agreement that the Defendant's withdrawal notice (Doc. # 27) is appropriate, the court deems Defendant's Motion for Reconsideration (Doc. ## 2 and 6) as **WITHDRAWN**.

Additionally, in view of the discussions had today and there being two notices of appeal (Doc. ## 5 and 12) pending, Magistrate Judge Cobb states it appears he no longer has further jurisdiction over this case and the matter will now proceed before District Judge Du. The court suggests counsel contact Judge Du's courtroom administrator to schedule any necessary proceedings relative to Defendant's notices of appeal.

IT IS SO ORDERED.

10:28 a.m. Court adjourns.

LANCE S. WILSON, CLERK

By: /s/
Katie Lynn Ogden, Deputy Clerk